



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MOP/166470

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 06, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Calumet County Department of Human Services in regard to Medical Assistance, a hearing was held on July 09, 2015, at Green Bay, Wisconsin.

The issue for determination is whether the agency properly seeks to recover an overissuance of MA/BC+ benefits in the amount of \$745 for the period of January 1, 2015 – April 30, 2015 from the Petitioner.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Lynn Brenner

Calumet County Department of Human Services  
206 Court Street  
Chilton, WI 53014-1198

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. In or about May, 2014, the Petitioner applied for healthcare benefits through the ACA's federal marketplace. She reported that she had no income. On May 27, 2014, the agency received the

Petitioner's application based on the marketplace determination that she was eligible for BC+ due to having no reported income.

3. On June 3, 2014, the agency issued a Notice of Decision to the Petitioner informing her that her application for BC+ was approved and she was enrolled in BC+ effective May 1, 2014 with no premium. The notice also informed the Petitioner of the requirement to report to the agency within 10 days of any change in health insurance coverage. The notice also informed the Petitioner that she must report to the agency by the 10<sup>th</sup> day of the following month if her total gross monthly income exceeded \$972.50.
4. On May 14, 2015, the agency was alerted to a wage discrepancy in Petitioner's reported wages. On May 15, 2015, the agency requested employment and wage verification from Lutheran Social Services. On May 18, 2015, the agency received verification from the employer of Petitioner's dates of employment from November 7, 2015 through the present (May, 2015) and actual wages. Petitioner's gross wages were reported as \$2,720/month
5. On May 26, 2015, the agency issued a Medical Assistance/BadgerCare/BadgerCare Plus Overpayment Notice to the Petitioner informing her that the agency intends to recover an overissuance of MA/BC+ benefits in the amount of \$745 for the period of January 1, 2015 – April 30, 2015 due to a client error in failing to accurately report household members.
6. On June 6, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. The error does not have to be intentional; unintentional errors are to be recovered but are not considered to be fraudulent. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

In this case, the Petitioner applied for health insurance through the federal marketplace. Because she had no income reported, the marketplace, per its procedure/process, forwarded her application to the state

agency to determine her eligibility for BC+. Based on no reported income, the state agency determined the Petitioner was eligible for BC+ and issued the Notice of Decision to her on June 3, 2014 (see Finding of Fact #3).

The Petitioner testified at the hearing that she received the Notice but did not understand that it advised her that she had been enrolled in BC+. She testified that she never received a ForwardHealth card or number and never used any of the benefits. In September, 2014, she obtained a job and she received health insurance through her employer effective January 1, 2015. The Petitioner did not dispute the agency's determination of her income and determination that she was not eligible for BC+ benefits during the period of January 1, 2015 – April 30, 2015. She disputes the overpayment on the basis that she never applied for BC+ and did not know that she had been enrolled in the program. Therefore, she did not inform the agency when she obtained employment and when her income exceeded reporting requirements.

I recognize that the process of applying for and obtaining health insurance can be challenging. However, the notice issued to the Petitioner did inform her that she was enrolled effective May 1, 2014 in the BC+ program and advised her of reporting requirements. Though she may not have used the benefits, the state agency did pay a monthly capitation rate for her benefits and she was covered by the insurance effective May 1, 2014. The agency presented evidence to demonstrate that her income went over the reporting requirement and the income limit for eligibility in November, 2014. Therefore, she was required to report her employment and income by December 10, 2014. If it had been reported, her eligibility and benefits would have ended on January 1, 2015.

The law allows the agency to recover an overissuance in this situation. The agency presented evidence to demonstrate the amount of the capitation paid for the Petitioner for the period of January 1, 2015 – April 30, 2015 in the amount of \$745.88.

Based on the evidence presented, I must conclude that the agency may recover an overissuance of BC+ benefits from the Petitioner in the amount of \$745 for the period of January 1, 2015 – April 30, 2015.

### **CONCLUSIONS OF LAW**

The agency may recover an overissuance of BC+ benefits from the Petitioner in the amount of \$745 for the period of January 1, 2015 – April 30, 2015.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of August, 2015

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on August 28, 2015.

Calumet County Department of Human Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability